IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 16954 of 2004

Between:

1 Kottani Naga Mani W/o. Vishnu
Penugonda, Penugonda Mandal, WG.District.
2 Kottani Vishnu S/o. Erukulu
Penugonda, Penugonda Mandal, WG.District.

..... PETITIONERS

AND

1 The District Collector, W.G.District, Eluru.
2 The Revenue Divisional Officer, Kovvur, W.G.District.
3 The Mandal Revenue Officer, Penugonda Mandal, W.G.District.
4 The Penugonda Gram Panchayath, Penugonda, Penugonda Mandal,

W.G.District. rep. by its Secretary.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus or any other appropriate writ, order or direction declaring the action of the Respondents in demolishing the buildings of testament Petitioner bearing D.NO.29-166 and 29-166/1situated at Petchetti vari street, cherukuvada, H/o. Punugonda village, Penugonda Mandal, W.G.district as illegal, arbitrary and violative of Principles of natural justice and also violative of Art. 14,16 and 300-A of Constitution of India and issue consequential direction to the respondents not to demolish the same.

Counsel for the Petitioner:MR.K.CHIDAMBARAM

Counsel for the Respondent No.1 to 3: GP FOR REVENUE

Counsel for Respondent 4 : Sri D. Srinivas

The Court at the stage of admission made the following ORDER:

Heard learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for respondent
Nos.1 to 3 and learned counsel for respondent No.4.

Petitioners state that they have constructed buildings in their respective own sites, without any deviations and encroachments, by duly obtaining permission from the authorities concerned and have been paying the necessary taxes regularly. While so, respondents 3 and 4, under the guise of widening of the roads, laid identification marks beyond 50 feet, though it is intimated that they would widen the road at 34 feet. They further state that the respondents have not issued any prior notice intimating their proposed action of demolishing the constructions in their sites. Therefore, the petitioners approached this Court, by filing the present writ petition, invoking the extraordinary jurisdiction under Article 226 of the Constitution of India, contending that the respondents have no power or authority to demolish their buildings, without initiating acquisition proceedings in accordance with law.

Having heard the learned counsel on either side and having perused the material available on record, it is seen that the main grievance of the petitioners is that the respondents, without following the due procedure as contemplated under the law and without issuing any prior notice of demolition, are proceeding to widen the road up to 50 feet.

The learned Government Pleader for Revenue appearing for respondent Nos.1 to 3 produced before this Court a letter addressed by the Mandal Revenue Officer, Penugonda, the third respondent herein and the same is placed on

record, wherein, it is stated that a meeting was held by the Revenue Divisional Officer, Kovvur and other revenue officials on 10.09.2004 with the residents of the vicinity, who are going to be affected with the removal of encroachments on the main road, 35 people attended the said meeting and gave their consent to remove their encroachments within 34 feet width, the Survey Team measured main road in the presence of the concerned building owners/representatives and laid identification marks up to 34 feet width and the minor part of the building corners and edges (i.e. Sun shades, projections, front elevations only) of the petitioners are going to be affected up to one feet or one and a half feet width only.

In view of the same, though the petitioners voluntarily agreed to remove the building corners and edges (i.e. Sun shades, projections, front elevations) etc., the respondents have to follow the due procedure even for removing the same by issuing necessary notice to the petitioners. If any person declines to remove the encroachments voluntarily, it is open for the respondents to proceed further in accordance with the procedure as contemplated under law.

The writ petition is accordingly disposed of. No costs.

04.10.2004

ksld

To

1 The District Collector, West Godavari District, Eluru.
2 The Revenue Divisional Officer, Kovvur, West Godavari District.
3 The Mandal Revenue Officer, Penugonda Mandal, West Godavari

District.

4 The Penugonda Gram Panchayat, Penugonda, Penugonda Mandal,

West Godavari District., Rep. by its Secretary.

5 2CCs to the G.P for Revenue, High Court Buildings,

Hyderabad(O.U.T).

6 2CD copies